

Commission on Victims in the Courts

Friday, January 25, 2013

10:00 a.m. to 12:00 p.m.

State Courts Building

1501 W. Washington, Phoenix, AZ 85007

Conference Room 119 A/B

Approved: 5/17/13

Present: Judge Ronald Reinstein, Chair; Michael Breeze, Judge Peter Cahill, Dr. Kathryn Coffman, Sydney Davis, Karen Duffy, Captain Larry Farnsworth, Judge Elizabeth Finn, Kirstin Flores, Leslie James, Keli Luther, Judge Evelyn Marez, Judge Anna Montoya-Paez-*telephonically*, Pam Moreton, Elizabeth Ortiz, Doug Pilcher, Judge Richard Weiss, Chief Cindy Winn

Absent/Excused: James Belanger, Shelly Corzo Shaffer, Jim Markey, Judge William O'Neil, Judge Antonio Riojas Jr., and JoAnn Del Colle.

Presenters/Guests: Renee Werner, MCSO Victims Unit; Kathleen Cheechi, MCSO Victims Unit; Aaron Nash, Clerk of the Court Maricopa County; Kim Knox, Maricopa County Collections; Dan Levy, POMC; Theresa Barrett, AOC; Cindy Cook, AOC; Cindy Trimble, AOC

Staff: Carol Mitchell, AOC; Jerri Medina, AOC

I. Regular Business

A. Welcome and Opening Remarks

The January 25, 2013 meeting of the Commission on Victims in the Courts was called to order by Chair, Honorable Ronald Reinstein, at 10:01 a.m.

The Chair asked for Commission member roll call and introductions of staff and guests.

Membership appointment cycles will expire soon and Carol Mitchell will be in touch with those eligible and interested in applying for reappointment. The Chair also acknowledged the following people for their service to our committee: Daisy Flores and Judge Doug Rayes. Ms. Daisy Flores started private practice in Gila County and Judge Doug Rayes is no longer the Presiding Criminal Judge. Dan Levy, also in attendance today was recognized for his past years of service on COVIC and accomplishments with victim issues on a national basis.

The American Probation & Parole Association's Winter Conference was held in Phoenix last week and several members of COVIC participated in a town hall-style presentation to discuss victim issues.

The Chair thanked Judge Cahill, Keli Luther, Judge Reinstein, Shelly Corzo Shaffer, Chief Cindy Winn, Carol Mitchell and Judge O'Neil for their time and participation. The session received good feedback from people, and two of our committee members were able to tell their victim impact story which we hope will encourage other jurisdictions across the nation that came to the conference to sponsor a victim's commission in their respective jurisdictions.

B. Approval of September 21, 2012 Minutes

The draft minutes from the September 21, 2012, meeting of the Commission on Victims in the Courts were presented for approval. The chair called for any omissions or corrections to the minutes from September 21, 2012 meeting.

- Motion was called for the approval of minutes presented; seconded and passed unanimously.

The Chair reminded members of future meeting dates for 2013 and a fourth meeting may be added if necessary.

Kirstin Flores, Chair for the Attorney General's Office Victim Advisory Committee reviewed legislation that is pending in both victims' rights and domestic violence related proposals. She reported that at the Advisory committee meeting, the AZ Department of Corrections brought up the issue involving defendants sentenced after 1994 (after the law changed) to 25 years to life. 2019 marks the year when the first of those cases will reach 25 years and concern is raised because defendants believe they are eligible for parole, but may have been misinformed about their chance of parole either in court minute entries, by a defense attorney, etc. This issue has been on the Department of Corrections and Board of Clemency radar for a while and hopes to work with the Appeals Division at the Attorney General's Office to address concerns of victims and defendants regarding this change.

II. Old Business

A. Victim ID Protection Rule Petition Update

Honorable Ronald Reinstein gave an update on COVIC's petition submitted to the Arizona Supreme Court regarding victims and court records. The workgroup reworked the petition due to feedback from the Supreme Court and other stakeholders who wanted to allow limited media access. The Supreme Court ordered restricting electronic access to criminal cases with victims of all adult sex crimes under ARS Title 13, Chapters 14, 32, 35 & 35.1 and all juvenile victims of any crimes. Additionally, all appellate cases (digital and paper records including decisions, opinions) will use a

victim identifier in place of a victim's name, with the exception of deceased victims. COVIC may consider submitting another rule petition to expand victim protection in the future.

The Supreme Court provided a nine month implementation period with the effective date set for September 1, 2013. COVIC wants to discuss impact on various stakeholders in the process especially the prosecutors which will have an additional responsibility to notify the court of these case types.

Judge Reinstein introduced Aaron Nash, Special Counsel with the Maricopa County Clerk of the Superior Court. Aaron shared that for implementation considerations, various stake holders across agencies (IT folks for programming needs, county and attorney general prosecutors, criminal court administration, court room clerks) and customer service people that primarily deal with access to the court records, need to be consulted about the impact of this rule change. Currently, criminal minute entries are the only documents online with the majority of documents filed from Maricopa County. The prosecutor would notify the clerk that the case falls under the "victim ID" exclusion category, and then the IT staff will work behind the scenes with programming to set a flag, so that minute entry doesn't show up in any online searches. It would be the same with sentencing minute entries.

When looking at implementation, courts need to have a clear understanding that it is any child victim in any case. The programming will be simple for specific statutes that involve child in the title, but for other cases, such as a DUI crash with a minor in the car, that case may not be as easily identifiable.

COVIC would like to start a state-wide implementation workgroup to help facilitate this petition rule. An important recommendation would be to ensure the Arizona Prosecuting Attorneys Advisory Council (APAAC) reviews the notification process from prosecutors, especially in the smaller counties. COVIC would like to facilitate that process or come up with "best practices" guidance for prosecutors and courts. The workgroup should include representation from the AG's Office, APAAC, IT from AOC, Criminal Court Administration, a judge and several people from COVIC. COVIC will also plan to revisit the issue after implementation to assess the real impact and determine any relevant issues that would support another rule petition.

- Motion presented:
Move to form a workgroup (including key stake holders) to make implementation recommendations to report back at our May meeting and have Aaron Nash serve as chair. Seconded by Breeze/Cahill; unanimously passed. Other volunteers included: Karen Duffy; Pam Moreton; Elizabeth Ortiz; Lori Ash and Kristin Flores.

Does ECR (Electronic Court Records) fall under this protection? With ECR is there going to be an exception the public can have access. The rule change is geared to the

general public not someone that has special court access and is registered to look at their own case through electronic court records (ECR). This rule is also not expected to impact lower courts or tribal courts.

III. New Business

A. Maricopa County Sherriff's Office (MCSO) – Victim Assistance and Notification Unit (VANU)

At the last COVIC meeting Captain Farnsworth and Keli Luther talked about creating a victim notification similar to the form police now use. Commander Kathleen Checchi and Officer Renee Warner are here today to speak about victim notification rights in IA (Initial Appearance) court and the work that the MCSO does with the VANU. VANU has been in around for 22 years and has done a tremendous amount of work on behalf of victims. The VANU phone number is (602) 876-8276.

Commander Checchi shared the process victims have to speak in IA court. When MCSO is on the scene of a victim crime, they complete a victim notification form and advise the victim that VANU is their first point of contact. VANU is a 24/7 operation, they can guide the victim to services such as shelters, rape crisis counseling, domestic abuse centers, safe houses, community information, and statutory rights. VANU is immediately notified that the criminal is going to a hearing and reach out to victims for notification. The victim form gives victims the option to “opt” in for notification. This form is maintained and updated through the Attorney General’s Office.

VANU staff is scheduling presentations across the valley to get a consistent message out to the community and give victims needed information. VANU is in the process of creating a standalone victim assistance website which is expected to rollout in March 2013. A demonstration of the new website was provided and received positive feedback from commission members. Currently, on the MCSO website under the “Are you a victim” tab you can also find various resources and the VANU contact information. Victims will be able to access information regarding their case via the internet and update their contact information in a confidential manner.

Other counties may also have the opportunity to use the MSCO template for in the future. This website is still a work in progress and all ideas and suggestions are welcome.

A critical link to the success of victim notification is law enforcement officer training on the use of this form and the importance is that officers constantly need reminding about distributing the form to victims at the scene of the crime. VANU continue to educate officers out in the field in the use of this form and victim rights information. MSCO has an annual training process over the use of forms and this form will be added to that training curriculum.

B. Juvenile cases and victim notice

Pam Moreton tabled this item until the next meeting.

C. Arizona Case Processing Standards Steering Committee

Judge Peter Cahill and Cindy Cook provided handouts and spoke about the ongoing committee effort toward developing model time standards for processing court cases.

Model time standards have been developed at the national level through the National Center for State Courts (NCSC) and our state formed a committee to begin evaluating appropriate standards for our judicial system. These standards are intended to be used as a management tool for the courts to assess delivery of judicial services. The goal is to determine how our judicial system is doing and where improvements can be made. The standards are not to be considered rules governing individual cases or as creating rights for individual litigants; but rather any deviation of the standards should be justified by serving justice. The committee identified 19 different case types within both general and limited jurisdiction court cases including: civil cases; probate; mental health; juvenile delinquency; child welfare and criminal cases.

The standards are set usually in tiers; the first set being those that we expect to be quickly resolved. The next set of cases to measure would be the biggest group of cases and they should be resolved within a specific period. The third tier would be the more difficult or complex cases that usually go to trial. All of our standards have left room for a very small amount of “outlier” cases, such as death penalty cases.

The committee has spent considerable time evaluating whether the national standards were reasonable for our courts and what was the acceptable method of tracking time standards. Some excluded time exceptions within the case types were identified such as warrant time, diversion cases.

Some of the case types were highlighted and discussed including misdemeanors and DUIs and criminal matters with victims.

On February 15, 2012, a website will be available listing the nineteen case types and their corresponding recommended case processing time standards with a public comments forum. Please forward the information in the handout to anyone within the legal community that you think has some expertise in this area and can provide feedback. Once the comment period is completed, an update will be provided to all the standing committees for review and approval prior to submission to the Arizona Judicial Council.

Some COVIC members expressed an interest in more specifics within case types, such as how long child victim cases take in the system. Although the committee did not drill down to that level of detail for their work, it may be something COVIC would consider as a future research or investigative project. Specifically, a question was raised about how long child victim cases are taking to move through the justice system

and particularly sex crime cases that utilize expert testimony become very complex and take a long time to hear. The Chair recalled that Arizona has a statute citing the use of a “certificate of special public importance” in which you can use to put a trial on the fast track.

D. Strategic Agenda 2015

The Chair acknowledged that COVIC was created by Chief Justice McGregor as a result of being part of the strategic plan goal involving the administration of justice for children and victims. Carol Mitchell addressed COVIC about the Supreme Court’s upcoming Strategic Agenda planning process. In 2015, Vice Chief Justice Bales will become the new Chief Justice and a new strategic agenda will be put in place. A PowerPoint presentation was reviewed and several goals from the current agenda were highlighted, demonstrating that the strategic agenda produces quality ideas and results. All the Supreme Court’s standing committees are being asked to submit ideas and recommendations.

The workgroup may want to look at current court trends and issues that affect our environment over the next five years. Recommend new goals and objectives to strengthen that agenda and then recommend projects and initiatives. Give a voice to any thoughts, ideas and things that have been stirring that would impact not just victims but the justice system as a whole and what might improve our process. Sydney Davis suggested that COVIC’s prior year’s strategic initiatives list be reviewed and serve as the basis for potential recommendations. Additionally, the following ideas were raised:

- Developing best practices for working with child victims in a violent crime cases
- Addressing needs of Non-English speaking victims and victims’ families
- Expand and improve restitution and collection on judgments
- Automate the victim notification form
- Suggest victim-related interview questions for judicial selection process
- Improve initial appearance notifications

Motion by Michael Breeze to create workgroup with the authority to make recommendations for the 2015 Strategic Agenda on behalf of COVIC.

- Seconded by Keli Luther; passed unanimously.

Interested volunteers included: Mike Breeze, Dr. Coffman, Kirstin Flores, Keli Luther, Judge Ron Reinstein and Carol Mitchell, Kim Knox and Judge Richard Weiss.

IV. Call to Public

A. Good of the Order/Call to the Public

Kim Knox, Maricopa County Collections Department gave an update on HB 2256, which goes into effect April 1, 2013 and changes a portion of criminal restitution. HB

2256 moves restitution from the end of the sentence to the beginning which is strictly a procedural change with no additional punishment. Kim is aware of at least one Public Defender's office that has recently authored an article in opposition to the bill to collecting interest from the time of sentencing and imposing a lien on property.

Kim also discussed the restitution liens process involving vehicles and the Automobile Dealership Association is looking to change the law. Dealers have the ability to run a \$4.00 records search for a clouded title. Individual consumers are unable to get this information and has caused several problems of people buying vehicles and later unable to register them due to outstanding liens. DMV liens have been one of the most valuable victim restitution tools and were often the only time that victims actually get paid for restitution. Several victim groups will be monitoring this bill to try to avoid losing this viable reimbursement stream for crime victims.

The Chair excused himself to attend another meeting and asked Honorable Peter Cahill to serve as acting chair for the remainder of the meeting.

Judge Elizabeth Finn spoke about the upcoming multi-disciplinary summit for domestic violence on March 15th and will share information via email to the members of COVIC.

V. Adjourn

A. **Motion:** To adjourn at 12:24pm. Motion was seconded and passed.

B. Next Committee Meeting Date:

Friday, May 17, 2013

10:00 a.m. to 12:00 p.m.

State Courts Building, Room 119 A/B

1501 W. Washington St., Phoenix, AZ 85007